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U.S. District Court
DISTRICT OF ARIZONA (Phoenix Division)
CIVIL DOCKET FOR CASE #: 2:07-cv-01552-MHM
Internal Use Only

Web.com, Inc. v. The Go Daddy Group, Inc.

Date Filed: 08/10/2007

Assigned to: Judge Mary H Murguia

Jury Demand: Plaintiff

Case in other court: USDC Northern District of Georgia,

Nature of Suit: 830 Patent

1:06-CV-1461-TCB

Jurisdiction: Federal Question

Cause: 35:145 Patent Infringement

Plaintiff**Web.com, Inc.**represented by **Edward A Gordon**

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Pat. #
6,789,103
6,842,769
6,868,444
6,654,804

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24. Upon information and belief, Go Daddy's infringement and active inducement of infringement have been willful and deliberate, rendering this case "exceptional" within the meaning of 35 U.S.C. § 285.

25. Web.com has been damaged and will be irreparably injured by Go Daddy's continuing infringement and active inducement of infringement, for which Web.com has no adequate remedy at law. Go Daddy's infringing activities will continue unless enjoined by this Court.

26. On January 11, 2005, United States Patent No. 6,842,769 ("the '769 patent"), entitled "Automatically Configured Network Server" was duly and legally issued to Interland, Inc. as assignee of its inventors, Steven D. Kim and Lior Elazary. (A copy of the '769 patent is annexed hereto as Exhibit 2.) Interland, Inc. subsequently changed its name to Web.com, Inc. Web.com, therefore, is the owner of all right, title and interest in and to the '769 patent, including all right to recover for any and all past infringement thereof.

27. Upon information and belief, Go Daddy has been and is now infringing the '769 patent by manufacturing, using, selling, and/or offering to sell, and has actively induced others to manufacture, use, sell, and/or offer to sell, in this Judicial District and elsewhere, products covered by one or more claims of the '769 patent, including products designated as the Deluxe Hosting Plan.

28. Upon information and belief, Go Daddy's infringement and active inducement of infringement have been willful and deliberate, rendering this case "exceptional" within the meaning of 35 U.S.C. § 285.

29. Web.com has been damaged and will be irreparably injured by Go Daddy's continuing infringement and active inducement of infringement, for which Web.com has no adequate remedy at law. Go Daddy's infringing activities will continue unless enjoined by this Court.

30. On March, 15, 2005, United States Patent No. 6,868,444 ("the '444 patent"), entitled "Server Configuration Management and Tracking" was duly and legally issued to Interland, Inc. as assignee of its inventors, Steven D. Kim and Lior Elazary. (A copy of the '444 patent is annexed hereto as Exhibit 3.) Interland, Inc. subsequently changed its name to Web.com, Inc. Web.com, therefore, is the owner of all right, title and interest in and to the '444 patent, including all right to recover for any and all past infringement thereof.

31. Upon information and belief, Go Daddy has been and is now infringing the '444 patent by manufacturing, using, selling, and/or offering to sell, and has actively induced others to manufacture, use, sell, and/or offer to sell, in this Judicial District and elsewhere, products covered by one or more claims of the '444 patent, including products designated as the Deluxe Hosting Plan.

32. Upon information and belief, Go Daddy's infringement and active inducement of infringement have been willful and deliberate, rendering this case "exceptional" within the meaning of 35 U.S.C. § 285.

33. Web.com has been damaged and will be irreparably injured by Go Daddy's continuing infringement and active inducement of infringement, for which Web.com has no adequate remedy at law. Go Daddy's infringing activities will continue unless enjoined by this Court.

34. On November 25, 2003, United States Patent No. 6,654,804 ("the '804 patent"), entitled "Method and Apparatus For Automatic Dial-up Dial-down Web Hosting" was duly and legally issued to Micron Electronics, Inc. as assignee of its inventor, Hoyt A. Fleming III. (A copy of the '804 patent is annexed hereto as Exhibit 4.) Micron Electronics, Inc. subsequently changed its name to Interland, Inc. Interland, Inc. subsequently changed its name to Web.com, Inc. Web.com, therefore, is the owner of all right, title and interest in and to the '804 patent, including all right to recover for any and all past infringement thereof.

35. Upon information and belief, Go Daddy has been and is now infringing the '804 patent by manufacturing, using, selling, and/or offering to sell, and has actively induced others to manufacture, use, sell, and/or offer to sell, in

this Judicial District and elsewhere, products covered by one or more claims of the '804 patent, including products designated as the Economy Hosting Plan.

36. Upon information and belief, Go Daddy's infringement and active inducement of infringement have been willful and deliberate, rendering this case "exceptional" within the meaning of 35 U.S.C. § 285.

37. Web.com has been damaged and will be irreparably injured by Go Daddy's continuing infringement and active inducement of infringement, for which Web.com has no adequate remedy at law. Go Daddy's infringing activities will continue unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE Plaintiff Web.com demands judgment as follows:

(a) That Web.com is the lawful owner of all right, title and interest in and to United States Patent No. 6,789,103, including all right to recover for past infringement thereof;

(b) That Web.com is the lawful owner of all right, title and interest in and to United States Patent No. 6,842,769 including all right to recover for past infringement thereof;

(c) That Web.com is the lawful owner of all right, title and interest in and to United States Patent No. 6,868,444, including all right to recover for past infringement thereof;

(d) That Web.com is the lawful owner of all right, title and interest in and to United States Patent No. 6,654,804, including all right to recover for past infringement thereof;

(e) That the '103 patent is valid and enforceable;
(f) That the '769 patent is valid and enforceable;
(g) That the '444 patent is valid and enforceable;
(h) That the '804 patent is valid and enforceable;
(i) Finding Go Daddy liable for infringing and inducing others to infringe the '103 patent;

(j) Finding Go Daddy liable for infringing and inducing others to infringe the '769 patent;

(k) Finding Go Daddy liable for infringing and inducing others to infringe the '444 patent;

(l) Finding Go Daddy liable for infringing and inducing others to infringe the '804 patent;

(m) Finding that Go Daddy's infringement and inducement of infringement of the '103 patent has been willful and deliberate;

(n) Finding that Go Daddy's infringement and inducement of infringement of the '769 patent has been willful and deliberate;

(o) Finding that Go Daddy's infringement and inducement of infringement of the '444 patent has been willful and deliberate;

(p) Finding that Go Daddy's infringement and inducement of infringement of the '804 patent has been willful and deliberate;

(q) Permanently enjoining and restraining Go Daddy, its officers, agents, servants, employees, and attorneys, all parent, subsidiary and affiliate corporations and other business entities, and all other persons or entities acting in concert, participation or in privity with them, and their successors and assigns from further infringing or inducing the infringement of the '103 patent;

(r) Permanently enjoining and restraining Go Daddy, its officers, agents, servants, employees, and attorneys, all parent, subsidiary and affiliate corporations and other business entities, and all other persons or entities acting in concert, participation or in privity with them, and their successors and assigns from further infringing or inducing the infringement of the '769 patent;

(s) Permanently enjoining and restraining Go Daddy, its officers, agents, servants, employees, and attorneys, all parent, subsidiary and affiliate corporations and other business entities, and all other persons or entities acting in concert, participation or in privity with them, and their successors and assigns from further infringing or inducing the infringement of the '444 patent;

(t) Permanently enjoining and restraining Go Daddy, its officers, agents, servants, employees, and attorneys, all parent, subsidiary and affiliate corporations and other business entities, and all other persons or entities acting in concert, participation or in privity with them, and their successors and assigns from further infringing or inducing the infringement of the '804 patent;

(u) Awarding Web.com monetary damages, in an amount to be determined at trial, according to U.S. Patent Laws 35 U.S.C. § 287, together with interest and costs as fixed by the Court;

(v) Awarding Web.com enhanced damages under 35 U.S.C. § 284;

(w) Awarding Web.com its reasonable attorneys' and experts' fees and its costs and disbursements in this action, as provided by 35 U.S.C. § 285; and

(x) Granting Web.com such other and further relief as is just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Web.com, Inc. hereby demands a trial by jury of all issues so triable in this action.

Respectfully submitted, this 13th day of October, 2006.

Web.com, Inc.

By its attorneys,

s/ Jeanine L. Gibbs

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **Amended Complaint** with the Clerk of Court using the CM/ECF System. I further certify that I have this day mailed the foregoing **Amended Complaint** by U.S. Mail, postage prepaid, addressed to Defendant's Registered Agent at the following address:

The Go Daddy Group, Inc.
Attn: Barb Recherman
14455 N. Hayden Rd., #226
Scottsdale, AZ 85260

This 13th day of October, 2006.

s/ Jeanine L. Gibbs

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V.

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Date Filed	#	Docket Text
08/10/2007	<u>31</u>	Case transferred in from Northern District of Georgia; Case Number 1:06-CV-1461-TCB. Original file with documents numbered 1-30, certified copy of transfer order and docket sheet received. (Attachments: #1) Transfer Letter #2) Docket Sheet #3) Amended Complaint #4) Exhibit 1 to Amended Complaint #5) Exhibit 2 to Amended Complaint #6) Exhibit 3 to Amended Complaint #7) Exhibit 4 to Amended Complaint)(REK) (Entered: 08/13/2007)
08/10/2007	<u>32</u>	SUMMONS Returned Executed by Web.com, Inc. The Go Daddy Group Inc served on 10/16/06. (Originally filed in the Northern District of Georgia on 10/17/06 document #4) (REK) (Entered: 08/13/2007)
08/13/2007	<u>33</u>	Letter from USDC Phoenix to all Parties/Counsel of record regarding receipt of case transferred in from USDC, Northern District of Georgia, Case number 1:06-CV-1461-TCB. (REK) (Entered: 08/13/2007)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Web.com, Inc.,

Plaintiff,

v.

The GO DADDY Group, Inc.

Defendant.

Civil Action No.
1:06-CV-1461 (TCB)

AMENDED COMPLAINT

Plaintiff Web.com, Inc., ("Web.com," the "Company" or "Plaintiff Web.com"), for its complaint against defendant The GO DADDY Group, Inc. ("Go Daddy," "Defendant" or "Defendant Go Daddy"), alleges as follows:

NATURE OF THE ACTION

1. This is an action, *inter alia*, for infringement of Plaintiff Web.com's patent rights for which Web.com seeks damages and a permanent injunction for patent infringement pursuant to Title 35 of the United States Code.

2. Web.com is one of the country's leading web hosting companies, hosting over 170,000 web sites. Web.com's corporate headquarters and principal place of business are located in Atlanta, Georgia.

3. Web.com has been in business since at least 1997, operating originally as a manufacturer of personal computers under the name Micron Electronics, Inc. In 2001, the Company sold its PC manufacturing business but retained its website hosting business. In August 2001, the Company acquired Interland, Inc., adopted "Interland" as its new corporate name and relocated its headquarters to Atlanta, Georgia. In March 2006, the Company changed its name to Web.com, Inc.

4. During the course of this six-year transformation, the Company spent more than \$400 million purchasing web hosting companies, technologies, patents, and product lines.

5. This long and expensive transformation process has involved a sustained investment by Web.com's shareholders. As a result, Web.com has amassed a substantial portfolio of technologies, including the registered United States patents at issue in this claim (United States Patent No. 6,789,103, United States Patent No. 6,842,769, United States Patent No. 6,868,444, and United States Patent No. 6,654,804).

6. These patents, and the technologies represented by these patents, constitute valuable assets of Plaintiff Web.com and an investment for which Web.com's shareholders expect to receive a return.

7. Web.com's intellectual property, including these patents, is the result of its extensive and successful research and development programs.

8. On information and belief, Defendant Go Daddy sells and offers for sale a web hosting system having a remotely accessible control panel that allows a customer to change certain operating parameters that define, at least in part, the operation of the customer's web site hosted on Go Daddy.

9. The Defendant's control panel for adjusting certain operating parameters of a customer's hosted web site infringes on Web.com's United States patent rights.

10. On information and belief, Defendant Go Daddy sells and offers for sale a web hosting system having program routines operating on remote servers that respond to triggers from a database management system by receiving and updating configuration information for application programs hosted on the remote servers.

11. The Defendant's software that responds to the Defendant's control panel for adjusting certain operating parameters of a customer's hosted web site infringes on Web.com's United States patent rights.

12. On information and belief, Defendant Go Daddy uses, sells, and offers for sale a web hosting system that uses a database to store inventory

information about web hosting servers located in geographically separated web hosting facilities.

13. The Defendant's database for storing server inventory information infringes on Web.com's United States patent rights.

14. On information and belief, Defendant Go Daddy uses, sells, and offers for sale a web hosting system that: (1) tracks usage statistics related to a customer's web site; (2) generates a message to the customer that the customer's usage exceeds the usage allowance of the customer's current service plan; and (3) upon a customer's request in response to that message, upgrades that customer's service plan.

15. The Defendant's "Bandwidth Warning Messages" in conjunction with the Defendant's control panel infringe on Web.com's United States patent rights.

16. Plaintiff Web.com brings this action, seeking both injunctive relief and damages. Web.com respectfully requests that this Court enjoin Defendant Go Daddy from making, importing, advertising and selling any products or services that infringe Web.com's patented technology and further requests an award of damages to compensate Web.com for the injuries it has already suffered.

Web.com also requests that it be awarded treble damages, statutory damages, attorneys' fees, and related legal costs and expenses.

THE PARTIES

17. Plaintiff Web.com is a corporation organized and existing under the laws of the State of Minnesota and having its principal executive offices at 303 Peachtree Center Avenue, 5th floor, Atlanta, Georgia 30303.

18. On information and belief, Defendant Go Daddy is a corporation organized and existing under the laws of the State of Delaware and having its principal place of business in Scottsdale, Arizona.

19. On information and belief, Defendant Go Daddy makes, uses, sells and/or offers for sale throughout the United States the products alleged herein to infringe Web.com's United States Patent No. 6,789,103, United States Patent No. 6,842,769, United States Patent No. 6,868,444, and United States Patent No. 6,654,804. On information and belief, Defendant Go Daddy does business in this Judicial District.

JURISDICTION AND VENUE

20. This action for patent infringement arises under the Patent Laws of the United States, 35 U.S.C. § 1 et seq. Jurisdiction of this Court over the subject matter of this action is based on 28 U.S.C. §§ 1338 (patents) and 1331

(federal question). Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

**FIRST CAUSE OF ACTION
(For Patent Infringement)**

21. Web.com repeats and realleges the allegations of paragraphs 1 through 20 above.

22. On September 7, 2004, United States Patent No. 6,789,103 ("the '103 patent"), entitled "Synchronized Server Parameter Database" was duly and legally issued to Interland, Inc. as assignee of its inventors, Steven D. Kim and Lior Elazary. (A copy of the '103 patent is annexed hereto as Exhibit 1.) Interland, Inc. subsequently changed its name to Web.com, Inc. Web.com, therefore, is the owner of all right, title and interest in and to the '103 patent, including all right to recover for any and all past infringement thereof.

23. Upon information and belief, Go Daddy has been and is now infringing the '103 patent by manufacturing, using, selling, and/or offering to sell, and has actively induced others to manufacture, use, sell, and/or offer to sell, in this Judicial District and elsewhere, products covered by one or more claims of the '103 patent, including products designated as the Deluxe Hosting Plan.